

201 KAR 38:060. Code of ethics.

RELATES TO: KRS 335.615(5)

STATUTORY AUTHORITY: KRS 335.615(5), (6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.615(5) requires the board to promulgate a code of ethics for Licensed pastoral counselors. This administrative regulation establishes the required code of ethics.

Section 1. Identification of a Client. (1) A client shall be a person who receives a counseling, psychotherapeutic, or other professional service from a licensed pastoral counselor.

(2) A person identified as a client pursuant to subsection (1) of this section shall be deemed to continue to be a client for a period of two (2) years following the last date of service rendered to that client.

Section 2. Responsibility to Clients. (1) A licensed pastoral counselor shall:

- (a) Advance and protect the welfare of his client;
- (b) Respect the rights of persons seeking his assistance; and
- (c) Make reasonable efforts to ensure that his services are used appropriately.

(2) A licensed pastoral counselor shall not:

(a) Exploit the trust and dependency of a client;

(b)1. Except as provided by subparagraph 2 of this paragraph, engage in a dual relationship with a client, including a social, business, or personal relationship, that may:

- a. Impair professional judgment;
- b. Incur a risk of exploitation of the client; or
- c. Otherwise violate a provision of this administrative regulation.

2. If a dual relationship cannot be avoided, and does not impair professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation, a pastoral counselor shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation of the client does not occur;

(c) Engage in a sexual relationship with a current client or with a former client for two (2) years following the termination of pastoral counseling;

(d) Use his professional relationship with a client to further his own interests;

(e) Continue a pastoral counseling relationship unless it is reasonably clear that the client is benefiting from the relationship;

(f) Fail to assist a person in obtaining other pastoral counseling services if the pastoral counselor is unable or unwilling, for appropriate reasons, to provide professional help;

(g) Abandon or neglect a client in treatment without making reasonable arrangements for the continuation of treatment;

(h) Videotape, record, or permit third-party observation of a pastoral counseling session without having first obtained written informed consent from the client;

(i) Engage in sexual or other harassment or exploitation of a client, student, trainee, supervisee, employee, colleague, research subject, or actual or potential witness or complainant in an investigation or a disciplinary investigation or proceeding by the board; or

(j) Diagnose, treat, or advise on problem outside the recognized boundaries of his competence.

Section 3. Confidentiality. (1) A licensed pastoral counselor shall respect and guard the confidences of each individual client.

(2) A licensed pastoral counselor shall not disclose a client confidence except:

- (a) As mandated, or permitted by law;

- (b) To prevent a clear and immediate danger to a person;
 - (c) If the pastoral counselor is a defendant in a civil, criminal, or disciplinary action arising from the pastoral counseling, confidences may be disclosed only in the course of that action; or
 - (d) If a waiver has been obtained in writing, confidential information shall be revealed only in accordance with the terms of the waiver. If more than one (1) person in a family receives pastoral counseling, unless a waiver is executed by each family member receiving pastoral counseling, who is legally competent to execute a waiver, a pastoral counselor shall not disclose information received from any family member.
- (3) A pastoral counselor may use client or clinical materials in teaching, writing, and public presentations if:
- (a) A written waiver has been obtained in accordance with subsection (2)(d) of this section; or
 - (b) Appropriate steps have been taken to protect client identity and confidentiality.
 - (4) A pastoral counselor shall store or dispose of client records so as to maintain confidentiality.

Section 4. Responsibility to a Student or Supervisee. (1) A licensed pastoral counselor shall not exploit the trust and dependency of a student or supervisee.

- (2) A licensed pastoral counselor shall:
- (a) Be aware of his influential position with respect to a student or supervisee; and
 - (b) Avoid exploiting the trust and dependency of these persons.
1. A pastoral counselor shall make every effort to avoid a dual relationship, including a social, business, or personal relationship, with a student or supervisee that may impair professional judgment or increase the risk of exploitation.
2. If a dual relationship cannot be avoided, a pastoral counselor shall take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs.
3. A pastoral counselor shall not provide pastoral counseling to a student, employee or supervisee.
4. A pastoral counselor shall not engage in sexual intimacy or contact with a student or supervisee.
- (3) A pastoral counselor shall not permit a student or supervisee to perform or to hold himself out as competent to perform professional services beyond his level of training, experience, and competence.
- (4) A pastoral counselor shall not disclose a student's or supervisee's confidence except:
- (a) As mandated, or permitted by law;
 - (b) To prevent a clear and immediate danger to a person or persons;
 - (c) If the pastoral counselor is a defendant in a civil, criminal, or disciplinary action arising from the supervision, the student's or supervisee's confidence may be disclosed only in the course of that action;
 - (d) In an educational or training setting if there are multiple supervisors, to other professional colleagues who share responsibility for the training of the supervisee; or
 - (e) If there is a waiver previously obtained in writing, information shall be revealed only in accordance with the terms of the waiver.

Section 5. Financial Arrangements. (1) A pastoral counselor shall make financial arrangements with a client, third-party payer, or supervisee that are reasonably understandable and conform to accepted professional practices.

- (2) A pastoral counselor shall:
- (a) Not offer or accept payment for referrals;
 - (b) Not charge excessive fees for services;
 - (c) Disclose his fees to clients and supervisees at the beginning of services; and

(d) Represent facts truthfully to clients, third-party payers, and supervisees regarding services rendered.

Section 6. Advertising. (1) A licensed pastoral counselor shall:

(a) Accurately represent his education, training, and experience relevant to his practice of pastoral counseling; and

(b) Not use professional identification, including a business card, office sign, letterhead, or telephone or association directory listing if it includes a statement or claim that is false, fraudulent, misleading, or deceptive pursuant to subsection (2) of this section.

(2) A statement shall be false, fraudulent, misleading, or deceptive if it:

(a) Contains a material misrepresentation of fact;

(b) Fails to state a material fact necessary to make the statement, in light of all circumstances, not misleading; or

(c) Is intended to or is likely to create an unjustified expectation.

Section 7. Professional Competence and Integrity. A pastoral counselor shall maintain standards of professional competence and integrity and shall be subject to disciplinary action as provided in KRS 335.635:

(1) Upon conviction of a felony, or a misdemeanor involving moral turpitude, or a misdemeanor related to his practice as a pastoral counselor. Conviction shall include conviction based on:

(a) A plea of no contest or an "Alford Plea"; or

(b) The suspension or deferral of a sentence or conditional discharge;

(2) If his license or certificate to practice a health profession issued by another state's regulatory agency has been disciplined, or had a license or certificate to practice denied, by that state's regulatory agency;

(3) If his license or certificate to practice a health profession issued by another Kentucky regulatory agency has been disciplined or had a license or certificate to practice denied, by that Kentucky regulatory agency;

(4) Upon a showing of impairment due to mental or physical incapacity or the abuse of alcohol or other substances which may negatively impact the practice of pastoral counseling;

(5) If he misrepresented or concealed a material fact in obtaining a license or seeking reinstatement of a license, or seeking renewal of a license;

(6) If he has refused to comply with an order issued by the board; or

(7) If he has failed to cooperate with the board by not:

(a) Furnishing in writing a complete explanation to an initiating complaint filed with the board;

(b) Appearing before the board or a designated representative of the board at the time and place designated; or

(c) Properly responding to a subpoena issued by the board.

(8) Violated any statutory or regulatory section of KRS Chapter 335. (26 Ky.R. 286; Am. 589; eff. 9-15-1999; TAm eff. 7-17-2014.)